1	TO THE HONORABLE SENATE:
2	The Committee on Judiciary to which was referred Senate Bill No. 116
3	entitled "An act relating to rights of offenders in the custody of the Department
4	of Corrections" respectfully reports that it has considered the same and
5	recommends that the bill be amended by striking out all after the enacting
6	clause and inserting in lieu thereof the following:
7	Sec. 1. 28 V.S.A. § 456 is added to read:
8	§ 456. PAROLE BOARD INDEPENDENCE
9	(a) The Parole Board shall be an independent and impartial body.
10	(b) The Parole Board shall not be counseled or represented by any attorney
11	who, at the same time, has:
12	(1) an attorney-client relationship with the Department of
13	Corrections; or
14	(2) an attorney-client relationship with an offender who has a hearing
15	pending before the Board.
16	Sec. 2. 28 V.S.A. § 857 is added to read:
17	§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL
18	<u>REQUIREMENTS</u>
19	(a) Except in emergency circumstances as described in subsection (b) of
20	this section, before an inmate is placed in administrative segregation,
21	regardless of whether that inmate has been designated as having a serious

1	functional impairment under section 906 of this title, the inmate is entitled to a
2	hearing pursuant to subsection 852(b) of this title.
3	(b) In the event of an emergency situation and at the discretion of the
4	Commissioner, an inmate may be placed in administrative segregation prior to
5	receiving a hearing as described in subsection 852(b) of this title.
6	Sec. 3. 28 V.S.A. § 204 is amended to read:
7	§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF
8	RECORDS
9	* * *
10	(d)(1) Any Except as provided in subdivision (2), any presentence report,
11	pre-parole report, or supervision history prepared by any employee of the
12	Department in the discharge of the employee's official duty, except as
13	provided in subdivision 204a(b)(5) and section 205 of this title, is privileged
14	and shall not be disclosed to anyone outside the Department other than the
15	judge or the Parole Board, except that:
16	(2)(A) the The court or Board may in its discretion shall permit the
17	inspection of the report, or parts thereof redacted of information that may
18	compromise the safety or confidentiality of any person, by the State's
19	Attorney, and by the defendant or inmate, or his or her attorney, or; and
20	(B) the court or Board may in its discretion permit the inspection of
21	the report or parts thereof by other persons having a proper interest therein,

21

1	whenever the best interest or welfare of the defendant or inmate makes that
2	action desirable or helpful.
3	(3) Nothing in this section shall prohibit the Department for Children
4	and Families from accessing the supervision history of probationers or parolees
5	for the purpose of child protection.
6	* * *
7	Sec. 4. 28 V.S.A. § 601 is amended to read:
8	§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING
9	OFFICER OF EACH CORRECTIONAL FACILITY
10	The supervising officer of each facility shall be responsible for the efficient
11	and humane maintenance and operation and for the security of the facility,
12	subject to the supervisory authority conferred by law upon the Commissioner.
13	Each supervising officer is charged with the following powers and
14	responsibilities:
15	* * *
16	(10) To establish and maintain, in accordance with such rules and
17	regulations as are established by the Commissioner, a central file at the facility
18	containing an individual file for each inmate. Except as otherwise may be
19	indicated by the rules and regulations of the Department, the content of the file
20	of an inmate shall be confidential and shall not be subject to public inspection

except by court order for good cause shown and shall not be accessible to

1	inmates at the facility. Information that may compromise the safety or
2	confidentiality of any person shall be redacted from a file prior to inspection by
3	an inmate. Except as otherwise provided by law, the contents of an inmate's
4	file may be inspected, pursuant to a court order issued ex parte, by a state State
5	or federal prosecutor as part of a criminal investigation if the court finds that
6	the records may be relevant to the investigation. The information in the files
7	may be used for any lawful purpose but shall not otherwise be made public.
8	Sec. 5. 28 V.S.A. § 602 is added to read:
9	§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS
10	(a) At the request of any person in the custody or under the supervision of
11	the Department, the Department shall provide records maintained by the
12	Department concerning that person if that person is:
13	(1) a party in a case in any division of the Superior Court in which the
14	Department is also a party; or
15	(2) a defendant in a hearing before the Parole Board in which revocation
16	of parole is a possible outcome.
17	(b) Nothing in this title concerning the confidentiality of the Department's
18	records shall be construed as limiting a person's right to access records about
19	himself or herself, except as specified in subsections (c) and (d) of this section.

1	(c) The Department shall redact any information compromising the safety
2	or confidentiality of any person prior to providing the record to a person under
3	this section.
4	(d) The Department may seek a court order limiting disclosure of records.
5	The order may be granted only if the court finds by a preponderance of the
6	evidence that disclosure of records would create a substantial and identifiable
7	risk to public safety.
8	(e) As used in this section, "records" means records stored in any form,
9	physical or electronic.
10	Sec. 6. 13 V.S.A. § 5233 is amended to read:
11	§ 5233. EXTENT OF SERVICES
12	(a) A needy person who is entitled to be represented by an attorney under
13	section 5231 of this title is entitled:
14	* * *
15	(3) To be represented in any other postconviction proceeding which may
16	have more than a minimal effect on the length or conditions of detention where
17	the attorney considers:
18	(A) the claims, defenses, and other legal contentions to be warranted
19	by existing law or by a nonfrivolous argument for the extension, modification,
20	or reversal of existing law or the establishment of new law; and

1	(B) the allegations and other factual contentions to have evidentiary
2	support, or likely to have evidentiary support after a reasonable opportunity for
3	further investigation and discovery.
4	* * *
5	Sec. 7. EFFECTIVE DATE
6	This act shall take effect on passage.
7	(Committee vote:)
8	
9	Senator
10	FOR THE COMMITTEE